

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE SEPTEMBER 11 LITIGATION
:

WORLD TRADE CENTER PROPERTIES LLC, et al.,
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Plaintiffs,
:

-against-
:

GREAT LAKES REINSURANCE (UK) PLC, et al.,
:

Defendants.
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ALVIN K. HELLERSTEIN, U.S.D.J.:

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SCHEDULING ORDER

21 MC 101 (AKH)

10 Civ. 1642

On Wednesday, June 1, 2011, the parties in this action appeared before me for an initial pretrial conference, to address discovery needs and schedules for motion practice.

This lawsuit arises from the property damage settlement entered into by 18 of the 21 Plaintiffs in the 21 MC 101 Master Calendar and the Aviation Defendants whom they sued. In July 2010, I approved the settlement, for \$1.2 billion in the aggregate, over the objection of the WTCP Plaintiffs.¹ The WTCP Plaintiffs appealed, and the Second Circuit affirmed. In re Sept. 11 Prop. Damage Litig., 10-2970-cv, 2011 WL 1331847 (2d Cir. April 8, 2011). A number of the Plaintiffs who recovered in the property damage settlement were subrogee insurers who had paid their insureds for losses arising from the events of September 11. The WTCP Plaintiffs now contend that these subrogee insurers are liable to them under applicable insurance policies to pay over some of their recoveries in the property damage settlement.

¹ The other two nonsettling Plaintiffs were Cedar & Washington Associates, LLC, and Cantor Fitzgerald. In September 2010, I granted a motion to dismiss Cedar & Washington's complaint. Summary Order Granting Defendants' Motion to Dismiss, Cedar & Washington Assocs., LLC v. Port Auth. of New York and New Jersey, 08 Civ. 9146 (21 MC 101) (Doc. No. 1296) (S.D.N.Y. Sept. 22, 2010). In January 2011, I granted partial summary judgment dismissing a portion of Cantor Fitzgerald's claimed damages; that case is now in discovery. In re Sept. 11 Litig., 04 Civ. 7318 (21 MC 101), 2011 WL 149518 (S.D.N.Y. Jan. 19, 2011).

The WTCP Plaintiffs and Lloyd's of London and QBE International, two of the three insurer-Defendants, agree that for purposes of litigating the claims, there are fact questions. By June 24, 2011, all fact issues must be resolved or submitted to the Court for resolution. These parties shall appear for a status conference on June 28, 2011, at 2:30pm, to advise the Court of their progress.

The third insurer-Defendant, Industrial Risk Insurers, represents that under the terms of its policy with the WTCP Plaintiffs, it has satisfied its obligation to cover losses and is not liable for any further payment. IRI shall move for judgment on the pleadings by July 24, 2011. The WTCP Plaintiffs may file a cross-motion by the same date, but shall defer their arguments to their opposition brief, due August 12, 2011. IRI shall reply by August 23, 2011.

I shall hold oral argument on the motion on September 7, 2011, at 10:30am.

SO ORDERED.

Dated: June 1, 2011
New York, New York



ALVIN K. HELLERSTEIN
United States District Judge